



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 31 2014

REPLY TO THE ATTENTION OF:

LC-8J

Wayne P. Lorek
Thetford Corporation
P.O. Box 1285
Ann Arbor, Michigan 48106

Re: Settlement of Administrative Enforcement Action against Thetford Corporation

Dear Mr. Lorek:

Enclosed is a Consent Agreement and Final Order (CAFO) for your review. If the terms contained in the CAFO are acceptable, please sign it and return it to me, as soon as possible, for Agency approval. Please mail it to:

Estrella Calvo (LC-8J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, IL 60604

Please do not send the penalty until you after you have received the final executed CAFO.

If you have any questions, please feel free to call Ms. Calvo at (312) 353-8931 or Eaton Weiler at (312) 886-6041. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Terence Bonace".

Terence Bonace
Pesticides and Toxics Enforcement Section

Enclosure

cc: Eaton Weiler

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No.
)	
Thetford Corporation)	Proceeding to Assess a Civil Penalty
Ann Arbor, Michigan,)	Under Section 14(a) of the Federal
)	Insecticide, Fungicide, and Rodenticide
Respondent.)	Act, 7 U.S.C. § 136l(a)
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Thetford Corporation, a corporation doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a Complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a Complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136-136y.

Statutory and Regulatory Background

10. Under FIFRA, no person shall produce any pesticide unless the establishment in which it is produced is registered with EPA. Section 7(a) of FIFRA, 7 U.S.C. § 136e(a); and 40 C.F.R. § 167.20(a).

11. The term “person” means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

12. The term “produce” means to manufacture, prepare, compound, propagate, or process any pesticide, or to package, repackage, label, relabel or otherwise change the container of any pesticide. Section 2(w) of FIFRA, 7 U.S.C. § 136(w); and 40 C.F.R. § 167.3.

13. The terms “pesticide” and “pesticidal product” mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Section 2(u) of FIFRA, 7 U.S.C. § 136(u); and 40 C.F.R. § 167.3.

14. The term “establishment” means any site where a pesticide or pesticidal product is produced, or held, for distribution or sale. Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd); and 40 C.F.R. § 167.3.

15. Section 14(a)(1), 7 U.S.C. § 136l(a)(1), provides that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by EPA of not more than \$5,000 for each offense. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased this amount to \$7,500 for each offense occurring after January 12, 2009.

Factual Allegations and Alleged Violations

16. At all times relevant to this Complaint, Respondent owned or operated a facility located at 7101 Jackson Road, Ann Arbor, Michigan 48103 (Thetford facility).

17. Respondent “produced” “Thetford Fresh Water Tank Sanitizer” at the Thetford facility in 2013, within the meaning of Section 2(w) of FIFRA, 7 U.S.C. § 136(w); and 40 C.F.R. § 167.3.

18. The product referenced in Paragraph 17 above constitutes a “pesticide” and “pesticidal product,” within the meaning of Section 2(u) of FIFRA, 7 U.S.C. § 136(u); and 40 C.F.R. § 167.3.

19. The Thetford facility constitutes an “establishment,” within the meaning of Section 2(dd) of FIFRA, 7 U.S.C. § 136(dd); and 40 C.F.R. § 167.3.

20. At all times relevant to this Complaint, the establishment was not registered with EPA.

21. Respondent violated Section 7(a) of FIFRA, 7 U.S.C. § 136e(a); and 40 C.F.R. § 167.20(a) by producing a pesticide at the unregistered establishment identified in Paragraph 16.

Civil Penalty

22. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$4,300. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondent's business, the effect on Respondent's ability to continue in business, and the gravity of the violation. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

23. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,300 civil penalty for the FIFRA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The check must note Thetford Corporation and the docket number of this CAFO.

24. Respondent must send a notice of payment that states Respondent's name, complete address and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Terence Bonace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard.
Chicago, Illinois 60604

Eaton Weiler (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

25. This civil penalty is not deductible for federal tax purposes.

26. If Respondent does not pay timely the civil penalty, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

27. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

28. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

29. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

30. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state and local laws.

31. This CAFO is a "final order" for purposes of EPA's FIFRA Enforcement Response Policy.

32. The terms of this CAFO bind Respondent, its successors and assigns.

33. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

34. Each party agrees to bear its own costs and attorneys' fees, in this action.

35. This CAFO constitutes the entire agreement between the parties.

Thetford Corporation, Respondent

Date

Wayne P. Lorek
Vice President, Operations
Thetford Corporation

United States Environmental Protection Agency, Complainant

Date

Margaret M. Guerriero
Director
Land and Chemicals Division

**In the Matter of:
Theftford Corporation
Docket No.**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

